IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17311 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

DHARMESH DAYALBHAI TRIVEDI

Appearance:

1. Special Civil Application No. 17311 of 2003

MR HS MUNSHAW for Petitioner No. 1

MR TR MISHRA for Respondent No. 1

RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 04/08/2004

ORAL JUDGEMENT

1.0 The petitioner Corporation by way of this petition has challenged the judgment and award dated 14/02/03 passed by the Labour Court, Junagadh in Reference (LCJ) No.265/2001, whereby the respondent

Conductor was reinstated in service with continuity of service but without any back wages. A penalty of stoppage of five increments with future effect was also imposed on the respondent.

2.0 The respondent workman was working as a Conductor with the petitioner Corporation. On 11/06/99, when the respondent was on duty in Khodinar - Ahmedabad route, the bus was checked by the checking squad of the petitioner Corporation. The checking squad found some irregularities in the issuance of tickets to the passengers by the respondent.

2.1 Therefore, charge sheet dated 09/07/99 was issued and inquiry was initiated against the respondent. The departmental inquiry found the respondent guilty as per the charges levelled against him. Show cause notice dated 03/06/00 was issued to the respondent. Ultimately, by order dated 25/07/2000, the respondent was dismissed from the service. The respondent preferred appeal before the Appellate Authority of the petitioner Corporation which was also rejected.

2.2 Feeling aggrieved by the said order of his dismissal, the respondent preferred reference being Reference (LCJ) No.265/2001 before the Labour Court, Junagadh. The Labour Court, Junagadh by order dated 14/02/03 allowed the reference of the respondent by granting him reinstatement in service. Hence, this petition.

3.0 I have gone through the averments made in the petition as also the judgment and award of the Labour Court. The power exercised by the Labour Court is found to be just and proper to the extent that the petitioner was reinstated in service with continuity of service but without any back wages. The petitioner should not have been reinstated in the post of a Conductor but instead should have been reinstated in the post of an Helper.

4.0 In the result, the petition is partly allowed. The respondent workman is directed to be reinstated in service as an Helper and not as a Conductor with continuity of service and other benefits but without any back wages. The penalty of imposition of stoppage of five increments with future effect to remain as it is. Rule is made absolute to the aforesaid extent with no orders as to costs.

(K. S. Jhaveri, J.)

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